

MINUTES OF THE MEETING
OF THE
BOARD OF MEDICINE AND SURGERY

August 5, 2005

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairman Randy T. Kohl, MD at 9:00 a.m. on Friday, August 5, 2005, in the Staybridge Room, Staybridge Suite, 2701 Fletcher Avenue, Lincoln, Nebraska. The following members answered to roll call.

Randy T. Kohl, MD, Chairman
David A. Dryburgh, Secretary
Gordon D. Adams, MD
Larry E. Bragg, MD
Carl V. Smith, MD
Arthur A. Weaver, DO

Absent: Michael A. Sitorius, MD, Vice Chairman
Samuel L. Brown, PhD

A quorum was present and the meeting convened.

Also present to participate in the meeting: Teresa Hampton, Attorney, Legal Department; Robert Semerena, Administrator, Investigations Division; Michael Grutsch, Program Manager, Investigations Division; Susanne Rydberg, Investigator; Patricia Lemke, Investigator; Marletta Stark, Investigator; Loretta Bennet, Investigator; Sharon Fitts, Investigator; Jeff Newman, Investigator; Becky Wisell, Section Administrator, Credentialing Division; Vicki Bumgarner, Credentialing Coordinator, Credentialing Division; Meegan Dyrland, Credentialing Specialist, Credentialing Division.

ADOPTION OF AGENDA

Smith moved, seconded by Adams, to adopt the agenda. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

REVIEW OF RESULTS OF THREE PHYSICIAN COMMITTEE

Smith moved, seconded by Adams, to go into closed session for the purpose of hearing the results of the three physician committee and investigational reports. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried and the meeting went into closed session at 9:01 a.m.

Hampton left the meeting at 9:42 am

Terri Nutzman, Assistant Attorney General entered the meeting at 9:50 a.m.

Adams recused himself from the meeting at 9:53 a.m.

Adams returned to the meeting at 10:10 a.m.

INVESTIGATIONAL REPORTS

Smith recused himself from the meeting at 10:20 a.m.

Smith returned to the meeting at 10:35 a.m.

Adams recused himself from the meeting at 10:36 a.m.

Adams returned to the meeting at 10:59 a.m.

Sitorius connected via phone at 10:59 am

Smith recused himself from the meeting at 11:00 a.m.

Bragg recused himself from the meeting at 11:00 a.m.

Sitorius left the meeting at 11:25 a.m.

Smith and Bragg returned to the meeting at 11:25 a.m.

Ruth Schuldt, Compliance Monitor, Credentialing Division, entered the meeting at 12:15 p.m.

Helen Meeks, Administrator, Credentialing Division, entered the meeting at 1:00 p.m.

RISK FACTORS IN CLINICIAN SUICIDE

The meeting returned to open session at 1:09 p.m. Carl Greiner, MD, Assistant Dean for Clinical Affairs & Professor, University of Nebraska Medical Center gave a presentation on Clinician Suicide. The numbers of clinicians who attempt or commit suicide is quite significant. The subject was recently a lead article in the New England Journal. Topics discussed were social dimensions of suicide, red flags (what to watch for), psychological dimensions and triggering events.

Sandra Johnson, Executive Director, Nebraska Medical Association (NMA), entered the meeting at 1:20 p.m.

Kris Chiles, Section Administrator, Credentialing Division, Dr. Susan J. Boust, Board of Alcohol and Drug Counseling member, and other Board of Alcohol and Drug Counseling members entered the meeting at 1:45 p.m.

Greiner left the meeting at 2:00.

LB 551 REGARDING SUPERVISION OF ALCOHOL AND DRUG COUNSELORS

Dr. Susan J. Boust-physician member on Board of Alcohol and Drug Counseling (ADC) spoke about the draft of the proposal for the supervision of alcohol and drug counselors (LB 551). LB 551 passed during the 2005 Legislative Session. This bill specifically relates to who defines sufficient training if the supervisor for the practical and work experience is a physician or psychologist. The ADC Board submitted the proposal to the Board of Medicine for discussion and consideration. It was drafted in consultation with members of the NMA Mental Health Task Force and with members of the ADC Board. Smith moved, seconded by Dryburgh, to approve the draft as presented. Smith withdrew his motion. Kohl wanted to make sure that the physician community is in favor of this and requested feedback from area physicians. Adams moved, seconded by Smith to table the draft pending additional feedback from physicians. Boust will obtain this information and submit to Board staff. The Board will again review the matter by mail ballot. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Chiles and Boust left the meeting at 2:20 p.m.

Smith moved, seconded by Adams, to go into closed session to continue hearing investigational reports.

Adams recused himself from the meeting at 3:00 p.m.

Adams returned to the meeting at 3:08 p.m.

Smith moved, seconded by Adams, to go into open session at 3:09 p.m.. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

MEDICAL APPLICATION REVIEW & DISPOSITION

Initial Licensure

Neysan Bayat, MD-the Board reviewed information regarding Bayat's response to one of the questions on the application. Weaver moved, seconded by Smith to approve issuance of a license to Bayat. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Stephanie Michelle McCarthy, MD-the Board reviewed information concerning a history of alcohol and drug addiction. McCarthy currently holds a probationary Temporary Educational Permit (TEP), issued July 9, 2004. Smith moved, seconded by Dryburgh, to issue a probationary permanent license for the term of four years. The same conditions will apply as were connected to her probationary TEP, with the addition of a quarterly report from a Board approved practice monitor for any practice outside of the residency program. Any practice outside the residency program must be approved by her residency program. Any of the probationary conditions that are linked to the residency would be allowed to expire at the end of the residency. Bragg said he was not comfortable issuing her a permanent license, as she can be more appropriately monitored when she holds a TEP. Voting aye: Kohl, Adams, Dryburgh, Smith, Weaver. Voting nay: Bragg. Absent: Brown, Sitorius. Motion carried.

Timothy Daryl Narjes, MD-the Board reviewed information concerning a history of substance dependency-alcohol. Narjes currently holds a probationary Temporary Educational Permit, issued July 9, 2004. Smith moved, seconded by Dryburgh, to issue a probationary permanent license for the term of four years. The same conditions will apply as were connected to his probationary TEP with the addition of a quarterly report from a Board approved practice monitor for any practice outside of the residency program. Any practice outside the residency program must be approved by his residency program. Any of the probationary conditions that are linked to the residency would be allowed to expire at the end of the residency. Voting aye: Kohl, Adams, Bragg, Dryburgh, Smith, Weaver. Voting nay: None. Absent: Brown, Sitorius. Motion carried.

Mark Thomas Stevens, MD-the Board reviewed information regarding two malpractice claims (Jared Diaz and Carol Sanchez). Smith moved, seconded by Adams, to approve issuance of a license to Stevens. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Heidi Jo Tetherow, MD-application for a Temporary Educational Permit after suspension. Tetherow was previously denied a permanent license and also had her TEP suspended for a mandatory four months. She is now applying for another TEP. Adams moved, seconded by Smith to approve a five year probationary TEP. The probationary conditions would be to abstain from the personal use of controlled substances, prescription drugs and all mood altering substances, unless prescribed for or administered to her by a licensed physician or authorized licensed practitioner for a current diagnosed medical condition; abstain from the consumption of alcohol; random body fluid screening; comply with all aftercare treatment recommendations of the aftercare provider; reside in Castelar Park Oxford Recovery House until successful completion; attend a minimum of three NA or AA support group meetings per week; maintain a sponsor at all times; and other appropriate terms and conditions as found in the Agreed Settlement or are otherwise usual for similar cases of chemical dependency. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Monique Turner Tolston, MD-the Board reviewed information concerning a misdemeanor conviction for disorderly conduct in 2003, a misdemeanor conviction of driving under the influence in 2004 and a misdemeanor conviction of driving during suspension in 2004. Dryburgh moved, seconded by Adams, to approve a one-year probationary TEP with the conditions to abstain from alcohol and controlled substances, unless prescribed for a medical condition, random body fluid screens, and other usual conditions for similar circumstances. Voting aye: Kohl, Dryburgh, Adams, Bragg, Weaver. Voting nay: Smith. Absent: Brown, Sitorius. Motion carried.

Sharon Savannah Walker-Watkins, MD-the Board reviewed information regarding two malpractice claims (Sheila Smith and Deandre Jones). Adams moved, seconded by Smith to approve the license for Walker-Watkins. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Ali Khoynzhad, MD- this applicant required over seven years to complete all parts of the licensing examination. Neb. Rev. Stat. 71-131(6) states that all parts of the examination must be completed within

seven years and if that is not the case, then those parts that are not within the time allowed will need to be retaken. The Board considered this matter and agreed that in order to meet the requirements for licensure, Khoynezhad will need to retake USMLE Steps 1 and 2 Clinical Knowledge. The Board also considered whether Khoynezhad would need to successfully complete USMLE Step 2 Clinical Skills (CS). USMLE Step 2 CS was not in effect at the time Khoynezhad first completed all parts of the USMLE examination. Adams moved, seconded by Smith, to determine that in order to meet the requirements for licensure, Khoynezhad will need to successfully complete USMLE Step 2 CS, in addition to retaking USMLE Steps 1 and 2 CK. For future applicants who need to retake Step 2 CK because of the time requirement, Step 2 CS will also need to be successfully completed, since this examination is now part of the licensing examination. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Reinstatement

Lawrence Allen Lesnak, DO-application for reinstatement of license from inactive status. The license was placed on inactive status on October 1, 2000. The Board reviewed information regarding one malpractice claim (Carol Kauntz). Smith moved, seconded by Adams to approve the reinstatement of license for Lesnak. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Bao-Lan Thi Raikar, MD-application for reinstatement of license from inactive status. The license was placed on inactive status on October 2, 2002. The Board reviewed information regarding one malpractice claim (Cruz Jose Perez). Bragg moved, seconded by Dryburgh, to approve reinstatement of license for Raikar. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

PHYSICIAN ASSISTANT APPLICATION REVIEW & DISPOSITION

Todd Bean, MD/Stacey Bean, PA-request to supervise a third physician assistant. The Physician Assistant Committee voted to approve this request based on many extenuating factors: Kearney County Health Services has lost a physician; they are actively recruiting for a new physician, they are serving a healthcare shortage area; and all three physician assistants have over five years of experience. Smith moved, seconded by Bragg to approve the request to supervise a third physician assistant. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Jennifer Bengston, MD/Jeffrey Breitreutz, PA-request to supervise a third physician assistant and secondary site. The Physician Assistant Committee voted to approve this request. Smith moved, seconded by Adams to approve the request to supervise a third physician assistant including the request for secondary site approval. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Mikhael Cody-initial application. The Board reviewed information regarding one misdemeanor shoplifting conviction in 1994. The Physician Assistant Committee voted to approve this request. Smith moved, seconded by Dryburgh. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

The Board discussed a request for clarification from Brett Scholting, PA, a full-time physician assistant with the Nebraska National Guard, regarding whether he needs a PA supervisor in order to comply with Nebraska statutes and regulations. Wisell stated that Credentialing staff would obtain more information from the Department's Legal Services section and would ask Mr. Scholting for additional information regarding the nature of his duties and day-to-day work activities. This will be discussed at the next Board meeting.

The Board discussed the situation of a medical practice owned by physician assistants. Wisell stated that Roger Brink of the Department's Legal Services section advised her that under Nebraska laws there is no restriction on who can own a medical practice, but that the Department can refuse to credential a PA supervisor if the Department thinks that adequate supervision cannot be provided.

The Board discussed the application from Robert Crandall, MD to supervise Stephen Van Noy, PA, at First Care Medical in Kearney, NE. First Care Medical is owned by Van Noy and another physician

assistant, David Blauvelt. Smith moved, seconded by Weaver, to deny Crandall's application to supervise Van Noy. Voting aye: Smith, Weaver. Voting nay: Adams, Dryburgh, Kohl. Abstain: Bragg. Motion did not carry. Adams moved, seconded by Dryburgh, to approve Crandall's application to supervise Van Noy. Voting aye: Adams, Dryburgh, Kohl. Voting nay: Smith, Weaver. Abstain: Bragg. Motion carried.

DISCIPLINARY INFORMATION – ACTIONS TAKEN & PENDING

The Board reviewed the disciplinary actions taken and pending since the last meeting.

ALL HEALTHCARE RELATED BOARD MEMBERS MEETING AND 2006 PROPOSED LEGISLATION

Uniform Licensing Law (ULL) Rewrite and Practice Act Changes

The focus of the All Healthcare Related Board Members meeting was the ULL Rewrite and Practice Act changes.

The Board discussed proposed changes to the Practice Act for Medicine and Surgery. They discussed the proposal to replace the words "recommendation of the Board" throughout the practice act with the words "advice of the Board." The Board feels this change would reduce the authority of the Board even further than it is at the present time. Dryburgh discussed adding an additional professional member, possibly one who specializes in psychiatry. Wisell stated that currently the only specific requirements regarding professional membership is that two members should be medical school faculty members and one member be an osteopathic physician and surgeon. She stated that adding another professional member would require a separate legislative proposal. The deadline for 2006 legislation proposals to the Department has passed. Wisell discussed other changes that are proposed in the ULL rewrite.

Sandra Johnson from the Nebraska Medical Association came to discuss the rewrite, specifically the proposal to replace the term "gross incompetence" with the term "serious act." She mentioned that this has not been defined by the courts and will make it very difficult to prove cases. The next deadline to submit changes will be August 31st. Board members will carefully review the draft individually and send comments to Wisell to submit to the rewrite committee.

Frequency of Meetings

The Board considered meeting more frequently than every other month because the volume of business that they must conduct is growing larger and more complex all the time. Kohl stated that he prefers not to meet more often than is presently scheduled. Smith stated that he would like more frequent meetings. Wisell discussed the option of a consent agenda. The Board decided to wait until the October meeting when they can schedule extra meetings for 2006 if necessary.

Citizen Advocacy Center 2005 Annual Meeting – November 3-5, 2005

Weaver moved, seconded by Smith, to recommend sending Dryburgh to the Citizen Advocacy Center 2005 Annual Meeting. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Smith moved, seconded by Adams to recommend sending Brown to the Citizen Advocacy Center 2005 Annual Meeting, if he is able to attend. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

Approval of Minutes of the Meeting – June 3, 2005

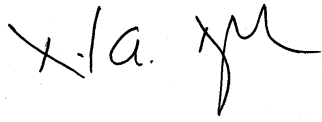
Smith moved, seconded by Adams to approve the minutes of the meeting from June 3, 2005. Voting aye: Kohl, Dryburgh, Adams, Bragg, Smith, Weaver. Voting nay: none. Absent: Brown, Sitorius. Motion carried.

In the interest of time, the Board tabled any discussion of remaining items on the Agenda until the next meeting, October 7, 2005.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:58 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.A. Dryburgh". The signature is written in a cursive, flowing style.

David A. Dryburgh, Secretary
Board of Medicine and Surgery